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DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-201877

DATE: May 6, 1981

MATTER OF: Solid Energy Systems Corporation

[Protest of Proposal Rejection by DOE]
DIGEST:

When grant applicant has neither alleged nor presented evidence (1) that agency awarded grants instead of contracts to circumvent competition requirements of procurement statutes and regulations or (2) that conflict of interest was involved, GAO will not review complaint regarding awards of grants.

Solid Energy Systems Corporation (SES) [complains of the rejection of its proposal by the Department of Energy (DOE) under solicitation No. DE-PS01-80RA50412.

[The solicitation was to provide financial assistance for feasibility studies concerning the construction and operation of commercial scale alternative fuel production facilities. [A grant, not a contract, was to be awarded to the successful, acceptable proposers] pursuant to the Federal Non-Nuclear Research and Development Act of 1974, as amended, 42 U.S.C. § 5901, et seq. (1976).

[DOE responds that the award of grants is discretionary with the granting agency and our Office should not depart from its usual policy of not interfering with the grantor agencies in making and administering grants.]

Because SES's complaint does not involve the award of a Government contract and does not fall within one of the exceptions to our usual policy of declining to review grant awards, we are dismissing it. See Johnson Products, Inc., B-198976, February 24, 1981, 81-1 CPD 129, and Hometech, B-200359, April 16, 1981, 81-1 CPD ____.

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Pursuant to our Public Notice at 40 Fed. Reg. 42406 (1975), we will consider complaints from prospective contractors concerning the awards of contracts by grantees under Federal grants in order to foster compliance with grant terms and with statutory and agency regulations. However, as the Public Notice indicates, it is not our intention to interfere with the functions and responsibilities of grantor agencies in the actual awards of grants. Fisherman's Marketing Association of Washington, Inc., B-199247, August 21, 1980, 80-2 CPD 138.

[We have considered the propriety of a grant award where it was alleged that the agency was using the grant award process to avoid the competition requirements of the Federal procurement laws or where it was alleged that a conflict of interest existed. Burgos & Associates, Inc., 59 Comp. Gen. 273 (1980), 80-1 CPD 155. However, SES has neither alleged nor presented any evidence that DOE chose to award grants, rather than contracts, in order to circumvent the competition requirements of the procurement statutes and regulations or that there is a conflict of interest involved. Consequently, SES's complaint does not fall within any of the exceptions to our stated policy of declining to review grant awards.

The complaint is dismissed.]

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel